



OLR RESEARCH REPORT

July 31, 2012

2012-R-0321

DEATH PENALTY

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You asked about states that abolished the death penalty and how they did so, which countries have the death penalty, and the history of the death penalty in Connecticut.

SUMMARY

Connecticut is one of 17 states without the death penalty. The other states are Alaska, Hawaii, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin.

In recent years, Connecticut and three other states abolished the death penalty.

1. In 2007, New Jersey abolished the death penalty and legislatively resented death row inmates to life in prison without parole.
2. In 2009, New Mexico abolished the death penalty prospectively, leaving two people on death row.
3. In 2011, Illinois' legislature abolished the death penalty prospectively but the governor commuted the sentences of those on death row to life in prison without parole.

4. In 2012, Connecticut abolished the death penalty prospectively, 10 inmates sentenced to death remain on death row, and anyone who committed a crime before April 25, 2012 can be charged with a capital felony and sentenced to death (PA 12-5).

According to Amnesty International, which tracks death penalty laws around the world:

1. 97 countries have completely abolished the death penalty;
2. 57 countries, including the United States, allow it;
3. 36 countries allow it but in practice do not carry out the death penalty; and
4. 8 countries only allow the death penalty in exceptional circumstances.

Connecticut's history with the death penalty stretches back to colonial times. The law changed many times over the years, generally narrowing the types of crimes eligible for the death penalty and later giving a judge or jury an alternative to sentencing a capital offender to death. The legislature also revised the state's death penalty statutes after the U.S. Supreme Court effectively ruled all state death penalty statutes unconstitutional in 1972. Finally, under PA 12-5, Connecticut abolished the death penalty prospectively by eliminating it as a sentencing option for crimes committed on or after April 25, 2012.

Based on information from the Death Penalty Information Center and *The Day*, Connecticut conducted 127 executions since 1639. The Connecticut State Library lists all executions since 1894 (<http://www.cslib.org/executions.htm>). In recent years, Connecticut's only executions occurred in 2005 and 1960.

COUNTRIES WITH THE DEATH PENALTY

Amnesty International compiles information on the death penalty around the world. Table 1 lists the countries that, according to Amnesty, retain the death penalty as of March 27, 2012.

Table 1: Countries with the Death Penalty

Afghanistan	China	Guyana	Lebanon	Saint Lucia	Trinidad and Tobago
Antigua and Barbuda	Comoros	India	Lesotho	Saint Vincent & Grenadines	Uganda
Bahamas	Congo (Democratic Republic)	Indonesia	Libya	Saudi Arabia	United Arab Emirates
Bahrain	Cuba	Iran	Malaysia	Singapore	United States
Bangladesh	Dominica	Iraq	Nigeria	Somalia	Vietnam
Barbados	Egypt	Jamaica	Oman	South Sudan	Yemen
Belarus	Equatorial Guinea	Japan	Pakistan	Sudan	Zimbabwe
Belize	Ethiopia	Jordan	Palestinian Authority	Syria	
Botswana	Guatemala	North Korea	Qatar	Taiwan	
Chad	Guinea	Kuwait	Saint Kitts & Nevis	Thailand	

Amnesty states that another 36 countries retain the death penalty but (1) have not carried out executions in the past 10 years and (2) are believed to have a policy or practice of not carrying out executions, with some making international commitments not to use the death penalty. Table 2 displays these countries, which Amnesty characterizes as “abolitionist in practice.”

Table 2: Countries with the Death Penalty but not Carrying out Executions

Algeria	Congo (Republic)	South Korea	Mali	Niger	Swaziland
Benin	Eritrea	Laos	Mauritania	Papua New Guinea	Tajikistan
Brunei Darussalam	Gambia	Liberia	Mongolia	Russian Federation	Tanzania
Burkina Faso	Ghana	Madagascar	Morocco	Sierra Leone	Tonga
Cameroon	Grenada	Malawi	Myanmar	Sri Lanka	Tunisia
Central African Republic	Kenya	Maldives	Nauru	Suriname	Zambia

In addition, Amnesty states that the following nine countries allow the death penalty in exceptional circumstances and Amnesty characterizes them as “abolitionist for ‘ordinary crimes’ only”: Bolivia, Brazil, Chile, El Salvador, Fiji, Israel, Kazakhstan, and Peru.

CONNECTICUT’S DEATH PENALTY HISTORY

Connecticut’s death penalty laws can be traced back to colonial times. The first codification of Connecticut law in 1650 authorized the death penalty for a wide range of crimes including murder, witchcraft, and blasphemy. The law changed many times over the years, including allowing a judge or jury to consider whether to sentence a defendant convicted of a capital crime to a penalty other than the death penalty.

In 1972, the U.S. Supreme Court effectively ruled all state death penalty statutes unconstitutional in *Furman v. Georgia* (408 U.S. 238 (1972)). The Court’s rulings required death penalty statutes to narrow the class of people eligible for the death penalty and the sentencing judge or jury to consider mitigating evidence about a defendant when deciding whether to impose a death sentence or another penalty. Connecticut revised its death penalty law in 1973 and the U.S. Supreme Court upheld similar death penalty statutes beginning in 1976 with *Gregg v. Georgia* (428 U.S. 153 (1976)).

Since 1973, the legislature debated bills on the death penalty many times (see OLR Report [2010-R-0498](#)). In 2009, the legislature passed an act to prospectively abolish the death penalty but then-Governor Rell vetoed it (PA 09-107). This past session, the legislature passed an act to prospectively abolish the death penalty which Governor Malloy signed on April 25, 2012 (PA 12-5).

Because PA 12-5 abolished the death penalty prospectively, 10 people sentenced to death remain on death row and anyone who committed a crime before April 25, 2012, the new act’s effective date, can still be sentenced to death.

PA 12-5—Prospectively Abolishing the Death Penalty

PA 12-5 eliminated the death penalty as a sentencing option for a capital felony committed on or after April 25, 2012, thus leaving life imprisonment without the possibility of release as the penalty. It also:

1. renamed the crime of capital felony as “murder with special circumstances and

2. specified that it does not affect capital felony convictions or cases pending before the act's effective date.

Capital Felony or Murder with Special Circumstances. PA 12-5 renames the crime of capital felony as “murder with special circumstances.” A person committed the crime of capital felony under prior law, or murder with special circumstances under the act, by murdering:

1. certain officers while performing their duties, such as a police officer, state marshal, special conservation officer, or Department of Correction (DOC) employee;
2. for pay, or hiring someone to murder;
3. after a previous conviction for intentional murder or murder while a felony was committed;
4. while sentenced to life imprisonment;
5. someone that he or she kidnapped;
6. while committing 1st degree sexual assault;
7. two or more people at the same time or in the course of a single transaction; or
8. a person under age 16.

Death Penalty Sentencing Hearing. For crimes committed before April 25, 2012, the act retains the death penalty sentencing procedures for capital felonies. Under these procedures, a person convicted of a capital felony must be sentenced to either the death penalty or life imprisonment without the possibility of release.

The jury, or the court if the defendant chooses, weighs mitigating and aggravating factors in a separate sentencing hearing to decide whether to impose the death penalty. The jury or court can consider eight specific aggravating factors. For mitigation, the jury or court must determine if a particular factor concerning the defendant's character, background, or history, or the nature and circumstances of the crime, is established by the evidence and whether that factor is mitigating, considering all the facts and circumstances of the case.

The jury or court cannot impose the death penalty, and must sentence the person to life imprisonment without the possibility of release, if mitigating factors outweigh, or are of equal weight to, the aggravating factors, or if any of five automatic bars to the death penalty exist. Otherwise, the person must be sentenced to death.

Bars to the Death Penalty. A defendant cannot receive the death penalty if the court or jury determines that the defendant:

1. was under age 18 at the time of the crime;
2. was mentally retarded at the time of the crime;
3. had a mental capacity or ability to conform his or her conduct to the requirements of law that was significantly impaired at the time of the crime (but not so impaired as to constitute a defense);
4. was guilty of a capital felony only as an accessory and had relatively minor participation; or
5. could not reasonably have foreseen that the conduct, in the course of committing the crime he or she was convicted of, would cause someone's death.

Prison Conditions. The act requires DOC to confer special circumstances high security status on any inmate (1) convicted of murder with special circumstances or (2) whose death sentence is commuted by the Board of Pardons and Paroles, or reduced by a court, to life without the possibility of release.

These inmates must be placed in administrative segregation (AS) until DOC completes the reclassification process required by the act. After reclassification, the inmate can remain in AS, be placed in protective custody, or be placed in a housing unit for the maximum security population under specified confinement conditions. DOC must annually review the confinement conditions of someone placed in a housing unit for the maximum security population.

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